

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-318-C - ORDER NO. 2011-
DECEMBER __, 2011

IN RE: Application of Applewood Communications Corporation to Provide Resold Interexchange Telecommunications Services Throughout the State of South Carolina and for Alternative Regulation)	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Applewood Communications Corporation (“Applewood” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2010) and the rules and regulations of the Commission. By its Application, Applewood also requests alternative regulation of its business interexchange services consistent with Commission Orders, and waiver of certain Commission regulations.

The Commission’s Clerk’s office instructed Applewood to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Applewood and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Applewood complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

Subsequently, a hearing was convened on November 28, 2011, at 10:00 a.m. in the offices of the Commission in Columbia, South Carolina, before Josh M. Minges, Hearing Examiner. Applewood was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (“ORS”) was represented by C. Lessie Hammonds, Esquire.

Courtlandt Miller, President of Applewood, testified in support of the Company’s Application. The record reveals that Applewood is a corporation organized under the laws of the Delaware and duly authorized to transact business in South Carolina. According to Mr. Miller, the Company seeks authority as a reseller of interexchange services. Mr. Miller explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. The Company intends to market its services by direct marketing and sales. Mr. Miller also discussed Applewood’s technical, financial, and managerial resources to provide the services for which it seeks authority.

With regard to technical, financial, and managerial capabilities, the Company’s Application and Mr. Miller’s testimony both evidence that Applewood’s management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Miller also testified that Applewood will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. Mr. Miller offered that approval of Applewood’s Application would serve the public interest.

Mr. Miller testified that the Company is financially qualified to operate and manage its proposed telecommunications in South Carolina.

Mr. Miller, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in another state. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts ("USOA"). Applewood maintains its books in accordance with Generally Accepted Accounting Principles ("GAAP").

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Applewood is incorporated under the laws of the State of Delaware and is authorized to do business in South Carolina by the Secretary of State.
2. Applewood desires to operate as a provider of resold interexchange services in South Carolina.
3. We find that Applewood possesses the managerial, technical, and financial experience and capability to operate as a provider, through resale, of interexchange services in South Carolina.
4. We find that the issuance of a Certificate of Public Convenience and Necessity to Applewood to operate as a reseller of interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.
5. Applewood requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Applewood's requested waiver reasonable and understands the potential difficulty presented to Applewood should the waiver not be granted. Further, we find that a

waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

6. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. The Commission concludes that Applewood possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Applewood and as set forth in its Application and Mr. Miller's testimony is in the best interests of the citizens of the State of South Carolina.

3. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Applewood to provide resold intrastate interexchange telecommunications services.

4. The Commission adopts a rate design for Applewood for its residential interexchange services, if any, which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. Applewood shall not adjust its residential interexchange rates for end-users, if any, below the approved maximum level without notice to the Commission and to the public. Applewood shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2010).

6. The Commission concludes that Applewood's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

7. We conclude that Applewood’s request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted. We also grant exemption from the policies requiring the use of USOA. These waivers are not contrary to the public interest

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Applewood to provide intrastate interexchange services through the resale of services authorized for resale by tariffs of carriers approved by the Commission within the State of South Carolina.

2. The Company’s rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Applewood shall file its revised tariff utilizing the Commission’s e-filing system for tariffs within 30 days of

the issuance of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. The Company's service is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Applewood shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Applewood changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Applewood shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Applewood shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Applewood shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Applewood shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1st** with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition,

the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Applewood shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at www.regulatorystaff.sc.gov; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Applewood requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2010). The Commission finds Applewood’s requested waiver reasonable and understands the potential difficulty presented to Applewood should the waiver not be granted. The Commission therefore grants the requested waiver. However, Applewood shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Applewood shall promptly notify the Commission and ORS if the location of its books and records changes.

12. Applewood also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Applewood maintains its book of accounts in accordance with Generally Accepted Accounting Principles. GAAP is used

extensively by interexchange carriers and other competitive telecommunications carriers. Accordingly, Applewood requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

John E. Howard, Chairman

ATTEST:

David A. Wright, Vice Chairman

(SEAL)